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*Attorneys for Plaintiff and Counter-Defendant
OPULENT TREASURES, INC.*

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

YA YA CREATIONS, INC.,

Plaintiff,

v.

OPULENT TREASURES, INC.,

Defendant.

OPULENT TREASURES, INC.,

Plaintiff,

v.

YA YA LOGISTICS, INC.,

Defendant.

Case No. 2:22-cv-06137-SSS-JC

[Consolidated with No. 23-04292]

**NOTICE OF MOTION AND
MOTION FOR LEAVE TO AMEND
DECLARATION AND PROPOSED
ORDER GRANTING MOTION TO
WITHDRAW AS COUNSEL**

1 TO ALL PARTIES AND ATTORNEY OF RECORDS:

2 PLEASE TAKE NOTICE that on Tuesday, October 8, 2024, at 8:30 a.m., in
3 the courtroom of the Honorable Sunshine S. Sykes, United States District Judge,
4 pursuant to L.R. 15-1, this Honorable Court conducted a hearing (the “Hearing”), in
5 part, following the motion of BOIES SCHILLER FLEXNER LLP (“BSF”) seeking
6 leave to Withdraw as Counsel for Plaintiff and Counter-Defendant Opulent
7 Treasures, Inc., filed on September 5, 2024 (the “Motion”). In support of the
8 Motion (in connection to docket entry 125), BSF attached the Declaration of John J.
9 Kucera in Support of Motion to Withdraw as Counsel for Plaintiff and Counter-
10 Defendant Opulent Treasures, Inc. (“Opulent”) (“Kucera Declaration ISO Motion to
11 Withdraw”) and Proposed Order Granting Motion to Withdraw as Counsel for
12 Plaintiff and Counter-Defendant Opulent (“Proposed Order Granting Withdrawal”).
13 During the Hearing, the Court advised the parties that the Court would grant the
14 Motion, and counsel for Opulent advised the Court that BSF would file an Amended
15 Declaration of John J. Kucera and an Amended Proposed Order in Support of the
16 Motion, both of which would reflect the issues the Court considered during the
17 Hearing.

18 Now, BSF seeks to amend paragraphs 7, 8, 10 and add paragraph 12 to the
19 Kucera Declaration ISO Motion to Withdraw and add lines 1-3 and 6-14 to the
20 Proposed Order Granting Withdrawal.

21 BSF has provided notice to both Opulent and to Ya Ya Creations, Inc. and Ya
22 Ya Logistics, Inc. (together, “Ya Ya”) of BSF’s intent to amend both the Kucera
23 Declaration ISO Motion to Withdraw and the Proposed Order Granting Withdrawal.
24 Ya Ya has indicated that it does not oppose the Motion.

25 For the reasons stated during the Hearing and in this Motion, good cause
26 exists for the Court to grant the Motion.

1 The Motion is based on the attached Memorandum of Points and Authorities,
2 the Declaration of John J. Kucera, all files and records in this case, and the Hearing
3 conducted on October 8, 2024.

4
5 Dated: October 9, 2024

Respectfully submitted,

6 By: /s/ John Kucera

7 John Kucera

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22 Defendant OPULENT TREASURES,
23 INC.
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

BSF brings this motion for leave to amend the Kucera Declaration ISO Motion to Withdraw and Proposed Order Granting Withdrawal.

II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

On August 29, 2022, a complaint was filed that initiated this matter between Opulent and Ya Ya. (ECF No. 1). On June 21, 2023, Opulent entered into an engagement agreement with BOIES SCHILLER FLEXNER LLP (“BSF”) to represent Opulent in this matter, and on July 28, 2023, BSF made its first appearance as attorneys of record for Opulent. (*See* Declaration of John J. Kucera (“Kucera Decl.”), ¶ 2 and ECF No. 49, 50, and 51).

Since first appearing, BSF has represented Opulent in various hearings and motions, including summary judgment motions (both affirmative and defensive). (ECF Nos. 53, 59, 65, 71, 72, 87, and 88). At present, trial in this case is set to begin on September 23, 2024. (ECF No. 57).

On July 10, 2024, Opulent and Ya Ya engaged in mediation before the Honorable Frederick F. Mumm, United States Magistrate Judge (Ret.), but that mediation did not result in a resolution of this case. (ECF No. 57). Then, on July 16, 2024, counsel for Ya Ya contacted BSF to request that Opulent stipulate to request a continuance of the trial to a date in December 2024. (Kucera Decl. ¶ 5).

Following Ya Ya’s request to stipulate to continue the trial date, and notwithstanding the unsuccessful mediation, the parties resumed settlement discussions. *Id.* at ¶ 6. Thereafter, following negotiations, the parties prepared a “Stipulation to Dismiss With Prejudice” based on the terms of the settlement (*Id.* at ¶ 6); and on August 9, 2024, the parties filed a “Joint Status Report on Settlement” and notified the Court that the parties had reached an agreement in principle (ECF No. 113).

1 However, after filing the Joint Status Report on Settlement, a conflict arose
2 between BSF and Opulent, and BSF advised Opulent of such conflict. (Kucera
3 Decl. ¶ 7). After consulting with attorneys within BSF regarding the nature of the
4 conflict and whether such conflict could be waived, BSF concluded that the nature
5 of the conflict mandated that BSF withdraw from representing Opulent pursuant to
6 the relevant California Rules of Professional Conduct (the “California Ethics
7 Rules”). *Id.* at ¶ 8.

8 Thereafter, BSF advised Opulent of its determination that the California
9 Ethics Rules mandated that BSF withdraw from representing Opulent. *Id.* at ¶ 9.

10 Thereafter, BSF consulted with the California State Bar “Ethics Hotline,” and
11 also has had consultations with independent outside ethics counsel in order to
12 confirm BSF’s determination that the California Ethics Rules mandate that BSF
13 withdraw from representing Opulent. *Id.* at ¶ 10.

14 Prior to BSF informing Opulent of its intent to withdraw, BSF took steps to
15 avoid or minimize any prejudice to Opulent and Ya Ya. On September 3, 2024,
16 BSF advised counsel for Ya Ya Logistics, of BSF’s intent to move to withdraw. *Id.*
17 at ¶ 11.

18 On September 5, 2024, BSF filed its Motion to Withdraw. (ECF No. 125).

19 **III. LEGAL STANDARD AND ARGUMENT**

20 Pursuant to Local Rule 83-2.3.2, “an attorney, whether appointed or retained,
21 may not withdraw as counsel except by leave of court.” L.R. 83-2.3.2. “A motion
22 for leave to withdraw must be made upon written notice given reasonably in
23 advance to the client and to all other parties who have appeared in the action” and it
24 “must be supported by good cause.” *Id.*; see also California Ethics Rule 1.16(d) (“A
25 lawyer shall not terminate a representation until the lawyer has taken reasonable
26 steps to avoid reasonably foreseeable prejudice to the rights of the client, such as
27 giving the client sufficient notice to permit the client to retain other counsel....”).

1 “[W]here representation has commenced, [an attorney] shall withdraw from
2 the representation of a client [under certain enumerated circumstances].” *Id.* at Rule
3 1.16(a).

4 Counsel provided notice to Opulent that, after seeking guidance from
5 attorneys within BSF and, subsequently, from outside ethics counsel and from the
6 California Bar “Ethics Hotline,” Counsel had concluded that the California Rules of
7 Ethics compelled Counsel to withdraw. (Kucera Decl., ¶¶ 8-9). On September 3,
8 2024, Counsel then provided notice to Ya Ya. *Id.* at ¶ 11.

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1 **IV. CONCLUSION**

2 For the foregoing reasons, Counsel respectfully requests that the Court permit
3 BSF to amend the Kucera Declaration ISO Motion to Withdraw and Proposed Order
4 Granting Withdrawal.

5
6 Dated: October 9, 2024

Respectfully submitted,

7 By: /s/ John Kucera

8 John Kucera

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24 Attorneys for Plaintiff and Counter-
25 Defendant OPULENT TREASURES,
26 INC.

CERTIFICATION OF COMPLIANCE

The undersigned, counsel of record for Opulent Treasures, Inc., certifies that this brief contains 730 words, which compiles with the word limit of L.R. 11-6.1.

Dated: October 9, 2024

/s/ John Kucera

John Kucera